

### **REMARKS**

Claims 1, 4, 6-11, 19-22 and 24-26 are pending in this application. Claim 1 is amended and new claims 25 and 26 are submitted herein. Claims 2-3, 5, 12-18 and 23 are canceled. Support for the amendments can be found throughout the specification, e.g., Figures 1-11. No new matter is presented.

#### **I. Finality of Office Action Improper**

In an office action mailed March 18, 2008 ("OA"), the Examiner set forth new grounds of rejection based on newly cited reference – US Patent No. 6,666,975. In the OA, the Examiner asserts that "applicant's amendments necessitated the new ground(s) of rejection...". OA, page 3. It is respectfully pointed out that finality is improper in this case and should be withdrawn.

Claim amendments did not necessitate the new ground of rejection and application of the newly cited reference. The Examiner's attention is drawn to claim 19, which is rejected under the new grounds. The only amendment to this claim was to hyphenate the term "pet-related". As such, it is unreasonable and improper to assert such an amendment necessitated a new ground of rejection.

Applicant must be allowed a reasonable and fair chance to reply to the newly cited alleged prior art reference. In this case, by improperly rendering the OA as final, Applicant's right to respond is improperly foreclosed. As such, it is respectfully requested that prosecution be re-opened and finality withdrawn.

#### **II. Rejection under 35 USC § 103**

The Examiner rejected claims 1, 4, 6-11 and 19-24 as being unpatentable over U.S. Patent No. 7,222,120 (Mindrum) in view of U.S. Patent No. 6,669,975 (Abene et al.). In view of the claim amendments, this rejection is rendered moot. In addition, this rejection is respectfully traversed for reasons discussed herein.

In order to establish a prima facie case of obviousness, the Examiner must demonstrate that the prior art (i) teaches or suggests every claim limitation, (ii) provides a motivation to combine (or modify) the teachings of the selected references, and (iii) provides a reasonable expectation of success. *In re Vaech*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness". *KSR Int 'I Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Thus, in order to establish a prima facie case of obviousness, it is necessary for the Examiner to identify the reasons why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed. Applicants respectfully submit that there is no reasoned analysis or rationale that supports a combination of the disparate teachings cited by the Examiner in a manner that results in Applicant's claimed invention.

The Examiner has failed to establish a *prima facie* case of obviousness. The Examiner asserts that Mindrum discloses, e.g. cols. 1-7, conducting an online transaction comprising providing at least on computer serve, e.g. Fig. 2, for use on the world wide web, where users may be provided a unique identification in creating an account, e.g. cols. 5-7, lines 59-45, and charging a fee for the services. Furthermore, the Examiner asserts that newly cited Abene et al. reference “discloses obtaining information regarding pet-related services from a plurality of sources and providing results and feedback to a user”. OA, p. 2. No other reasoning, factual or otherwise, is provided in support of the obviousness rejection.

The instant claims provide multiple elements which are not taught or suggested by combined references. For example, independent claim 1 requires linkage to “multiple sources of pet-related information and services”. Claim 1 also requires a remoter user to send and receive commands. In addition independent claims 1, 19 and 21 require “permitting remote users” access to “a plurality of associated sources and vendors”. In addition, independent claims 1 and 19 require “a pet calculator that prompts specific input from a remote user....whereby said remote users obtain information...from a plurality of associated sources and vendors...”. The preceding provides just several examples of claim elements which are not addressed. Therefore, for these reasons alone, independent claims 1, 19 and 21 (and dependent claims therefrom) are patentable over the cited prior art.

In reviewing the entirety of Mindrum, the teachings can be distilled down to a registry system which provides for information upload and retrieval. Indeed, Mindrum discloses throughout that the on-line system disclosed is a “registry system” where information is uploaded, may be stored, and can be retrieved by a user. (e.g., Mindrum, col. 4-6 and col. Lines 1-34). Therefore, the single reference to “pet” noted above is in the context of obtaining *registry information*, such as information associated with a deceased individual.

Mindrum merely discloses retrieval of stored data based on search of registry information. There is no teaching or suggestion of the claim element “Pet Calculator” as present in independent claims 1, 19, and 21, and as further described in the instant application’s disclosure. For example, “pet calculator” which is feature of the instant claims, and which provides the user options for the care of living existing or prospective pets, which requires more than simple information retrieval. (e.g., specification, p. 13, ll. 5-20). More particularly, the instant invention requires some *analysis* of user-input information and providing *feedback* subsequent to such analysis.

Indeed, as recited in the independent claims and as disclosed in the instant specification, the *pet calculator* performs analysis based on the input provided by the user, as well as providing feedback. (e.g., Specification, page 14, lines, 5, 12, 22-25; page 15, lines 10-12). Mindrum does not teach or suggest a system or methods for conducting *pet-related services*, but rather is limited to registering and retrieving simple information. In fact, Mindrum does not teach or suggest performing any analysis or analyzing as is required by the instant claims. Therefore, on this point alone, the instant claims are unobvious over Mindrum.

Furthermore, since Mindrum does not teach or suggest all the claimed elements for the independent claims, it follows that the dependent claims are also patentable over the reference. Moreover, regarding dependent claims 4, 6-11, 20-22 and 24, it is respectfully asserted that a *prima facie* case of obviousness has not been established. In fact, there is nothing the Office Action that addresses the further limitations provided in the dependent claims. In addition, regarding independent claim 19, there is a requirement for *pet selection*, which is a claim element Mindrum does not disclose or suggest. The entirety of the Mindrum reference distills down to a teaching of establishing retrievable input data, but without any analysis, such as *pet selection*.

The secondary reference Abene does not cure the deficiencies of Mindrum. Abene is directed to a singular invention directed to a customized dietary health management system for pets where input data individual pet's attributes and physical conditions is tabulated to select one formulation of the pre-made dry kibble and the mixture of functional based on an individual pet's attributes and physical conditions in order to provide a customized dry pet food product.

Furthermore, Abene and Mindrum do not teach or suggest a plurality of pet-related sources or vendors. Furthermore, the combined references do not meet the requirement for a "calculator" that "analyzes" input and provides "specific results and feedback to the remote user" (e.g., Claims 1 and 19). Indeed, the only mention of "feedback" is limited to adjusting the input to modify the customized diet. See, Abene, Example 1. Furthermore, it is noted that the Examiner has rejected multiple claims based on Mindrum and Abene but does not provide any citations in the Abene reference. It can only be assumed the lack of citations correspond to the lack of teachings relevant to the instant claims.

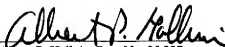
In sum, the combined teachings of Mindrum and Abene do not teach or suggest every claimed element. Furthermore, the Examiner has failed to sufficiently articulate a rationale for combining the teachings of the two references or for that matter where in Abene the purported teachings are located. In view of the foregoing, it is respectfully asserted that this rejection should be reconsidered and withdrawn.

**CONCLUSION**

In light of the remarks set forth above, Applicant believes that all the claims are in condition for allowance. Applicant respectfully requests that this patent application to promptly be passed to issuance. The Examiner is encouraged to telephone the undersigned with any question related to this application.

Respectfully submitted,

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